

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re ALONDRA M. ET AL, a Person
Coming Under the Juvenile Court Law.

2d Juv. No. B246942
(Super. Ct. No. J1395405, J1395406,
J1395405, J1395409)
(Santa Barbara County)

SANTA BARBARA COUNTY CHILD
PROTECTIVE SERVICES,

Plaintiff and Respondent,

v.

C. R. ,

Defendant and Appellant.

Celina R. is the mother of five children: three boys and two girls. The youngest child is five years old, and the eldest is nine years old. Mother appeals from an order terminating her parental rights to all of the children. (Welf. & Inst. Code, § 366.26.)¹ Her sole contention is that the evidence is insufficient to show that the children are adoptable. We affirm.

¹ All statutory references are to the Welfare and Institutions Code unless otherwise stated.

Background

At the section 366.26 hearing, the trial court received into evidence two reports: a section 366.26 report dated October 22, 2012, and an addendum report dated January 7, 2013. No witnesses testified at the hearing, and neither party presented argument. Mother's counsel told the court: "I've reviewed the file and we don't have any facts that fall within the enumerated exceptions. I've advised the mother to meet with me and file a notice of appeal."

The section 366.26 report included an evaluation of the children. All were meeting their "developmental milestones." The only reported problems concerned two of the boys: M.M. and J.M. M.M. "has engaged in inappropriate sexual behavior that is being addressed by the substitute care provider, school and his therapist." J.M. "has experienced enuresis (bed wetting)"

As to the children's adoptability, the report stated: "The likelihood of adoption for these five children is high. A prospective adoptive family has been identified who has stated they are willing to provide a home for all five children. A pre-placement visit on October 10, 2012 went well and the children are excited about the prospect of being placed together."

The addendum report dated January 7, 2013, stated that the children had been placed with the prospective adoptive family on October 25, 2012. Approximately two weeks after the placement, a social worker visited the family. "The caregivers shared minor behavioral problems that they were dealing with, but confirmed that they were still committed to adopting the children"

After mother visited the children on November 19, 2012, "the caregiver[s] noticed immediate negative changes in the children's behavior." The eldest child, A.M., "began doing poorly in school; she began instigating fights between the boys. When spoken to about poor behavior, she will cry until she makes herself sick and then put her finger down her throat to make herself throw-up (because 'that's what my mom did when she didn't feel good')." M.M. "would cry every night to the point of throwing up" and "started to punch himself in the face." J.M. "started stealing from students at school" and

fighting with students. The youngest child, who was four years old, "began throwing tantrums and cussing at school." Two of the boys "began to flash the girls to show the girls their private parts." "The boys, who had problems with enuresis before the move to the new home, but not after the move, started to have problems after [mother's] visit." Nevertheless, "[t]he care providers have expressed their love for the children, and affirmed their intention of adopting the children."

The social worker noted: "It is unfortunate that the mother's visits have resulted in such negative behaviors in the children. Her visits are causing increased stressors for both the caregivers and the children."

Discussion

Before terminating parental rights, the juvenile court must find by clear and convincing evidence that the child is likely to be adopted within a reasonable time. (§ 366.26, subd. (c)(1); *In re Zeth S.* (2003) 31 Cal.4th 396, 406.) In assessing a child's adoptability, "the juvenile court must focus on the child, and whether the child's age, physical condition, and emotional state may make it difficult to find an adoptive family. [Citations.] In reviewing the juvenile court's order, we determine whether the record contains substantial evidence from which a reasonable trier of fact could find clear and convincing evidence that [the child] was likely to be adopted within a reasonable time. [Citations.]" [Citations.] We give the court's finding of adoptability the benefit of every reasonable inference and resolve any evidentiary conflicts in favor of affirming. [Citation.]" (*In re Gregory A.* (2005) 126 Cal.App.4th 1554, 1561-1562.) "A social worker's opinion, by itself, is not sufficient to support a finding of adoptability. [Citation.]" (*In re Brian P.* (2002) 99 Cal.App.4th 616, 624.)

"If the child is considered generally adoptable, we do not examine the suitability of the prospective adoptive home. [Citation.] When the child is deemed adoptable based solely on a particular family's willingness to adopt the child, the trial court must determine whether there is a legal impediment to adoption. [Citation.]" (*In re Valerie W.* (2008) 162 Cal.App.4th 1, 13.)

Here, the social worker did not opine and the juvenile court did not find that the children were adoptable based solely on the foster parents' willingness to adopt them. It is reasonable to infer that the juvenile court considered the children to be generally adoptable. The court stated that they are "all adoptable individually." The court therefore "did not have a duty . . . to evaluate whether there was a legal impediment to adoption by the [foster parents]." (*In re G.M.* (2010) 181 Cal.App.4th 552, 564.)

Substantial evidence supports the juvenile court's finding that the children are generally adoptable and likely to be adopted within a reasonable time. The children are young. On January 31, 2013, when the trial court ordered the termination of mother's parental rights, the eldest child was eight years old and the youngest was four years old. All of the children were meeting their "developmental milestones," and there was no evidence of a physical or mental disease or disability. M.M. had "engaged in inappropriate sexual behavior," but this was "being addressed by the substitute care provider, school and his therapist." The section 366.26 report noted that M.M. "is capable of organized learning" and "is able to efficiently communicate with family, peers and service providers."

Mother focuses on behavioral problems that emerged after her visit with the children on November 19, 2012. It is reasonable to infer that these problems were triggered by mother's visit and would be resolved when her contact with the children ceased.² The children's foster parents wanted to adopt them. " ' "Usually, the fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor's age, physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective adoptive parent's willingness to adopt generally indicates the minor is likely

² On January 10, 2013, the juvenile court suspended mother's visitation with the children. When the court terminated mother's parental rights on January 31, 2013, it denied her request for a closure visit with the children.

to be adopted within a reasonable time either by the prospective adoptive parent *or by some other family.*" ' [Citation.]" (*In re Gregory A.*, *supra*, 126 Cal.App.4th at p. 1562.)

Mother argues that the evidence is insufficient because the social worker's adoption assessment did not contain the information required by section 366.21, subdivision (i)(1).³ In the juvenile court, mother did not object to the absence of the required information. By not objecting, mother forfeited her right to claim on appeal that the adoption assessment was deficient. (*In re Brian P.*, *supra*, 99 Cal.App.4th at p. 623; *In re Urayna L.* (1999) 75 Cal.App.4th 883, 886.) Irrespective of any deficiency, for the reasons discussed above substantial evidence supports the juvenile court's finding of adoptability.

Disposition

The judgment (order terminating parental rights) is affirmed.

NOT TO BE PUBLISHED.

YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

³ Section 366.21, subdivision (i)(1) requires the juvenile court to order the agency supervising the child to prepare an adoption assessment that shall include, inter alia, "(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, . . . to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. . . . [¶] (E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, [and] a statement from the child concerning placement and the adoption or guardianship"

Arthur A. Garcia, Judge
Superior Court County of Santa Barbara

Lori Siegel , under appointment by the Court of Appeal, for Appellant.

Dennis A. Marshall, County Counsel, County of Santa Barbara, Sarah A.
McElhinney, Deputy County Counsel, for Respondent.